

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1434

Introduced by Assembly Member Torrico

February 27, 2009

~~An act to amend Section 2653 of the Penal Code, relating to prisoners.~~
An act to amend Sections 12838, 12838.1, 12838.2, and 12838.3 of, and to repeal Section 12838.13 of, the Government Code, relating to the Department of Corrections and Rehabilitation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1434, as amended, Torrico. ~~Prisoners: medical treatment.~~
Department of Corrections and Rehabilitation: appointments.

Existing law requires the Governor to appoint the Secretary of Corrections and Rehabilitation and other specified positions within the Department of Corrections and Rehabilitation. Existing law authorizes individuals appointed to these positions to serve at the pleasure of the Governor.

This bill would eliminate these provisions and instead create the Corrections and Rehabilitation Board, consisting of the Governor, Lieutenant Governor, and the Attorney General, and require the board to appoint individuals to these positions. This bill would also authorize individuals appointed to these positions to serve at the pleasure of the board. This bill also make a technical, nonsubstantive change to these provisions.

~~Existing law provides that if a physician employed by the Department of Corrections and Rehabilitation certifies in writing that a particular medical treatment is required for a prisoner, as specified, that order may not be modified or canceled by any other employee of the department~~

without the approval of the chief medical officer of the institution or the physician in attendance, except as specified.

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 12838 of the Government Code is*
2 *amended to read:*

3 12838. (a) There is hereby created in state government the
4 Department of Corrections and Rehabilitation, to be headed by a
5 secretary, who shall be appointed by the ~~Governor~~ *Corrections*
6 *and Rehabilitation Board*, subject to ~~Senate~~ confirmation by
7 *approval of two-thirds of the Senate*, and shall serve at the pleasure
8 of the ~~Governor~~ *Corrections and Rehabilitation Board*. *The*
9 *secretary shall perform other duties prescribed by the Corrections*
10 *and Rehabilitation Board*. The Department of Corrections and
11 Rehabilitation shall consist of Adult Operations, Adult Programs,
12 Juvenile Justice, the Corrections Standards Authority, the Board
13 of Parole Hearings, the State Commission on Juvenile Justice, the
14 Prison Industry Authority, and the Prison Industry Board.

15 (b) The ~~Governor~~ *Corrections and Rehabilitation Board*, upon
16 recommendation of the secretary, may appoint two undersecretaries
17 of the Department of Corrections and Rehabilitation, subject to
18 Senate confirmation. The undersecretaries shall hold office at the
19 pleasure of the ~~Governor~~ *Corrections and Rehabilitation Board*.
20 One undersecretary shall oversee program support and the other
21 undersecretary shall oversee program operations for the department.

22 (c) The ~~Governor~~ *Corrections and Rehabilitation Board*, upon
23 recommendation of the secretary, shall appoint three chief deputy
24 secretaries, subject to Senate confirmation, who shall hold office
25 at the pleasure of the ~~Governor~~ *Corrections and Rehabilitation*
26 *Board*. One chief deputy secretary shall oversee adult operations,
27 one chief deputy secretary shall oversee adult programs, and one
28 chief deputy secretary shall oversee juvenile justice for the
29 department.

30 (d) The ~~Governor~~ *Corrections and Rehabilitation Board*, upon
31 recommendation of the secretary, shall appoint an assistant
32 secretary, subject to Senate confirmation, who shall be responsible

1 for health care policy for the department, and shall serve at the
2 pleasure of the ~~Governor~~ *Corrections and Rehabilitation Board*.

3 (e) ~~The Governor~~ *Corrections and Rehabilitation Board*, upon
4 recommendation of the secretary, shall appoint an Assistant
5 Secretary for Victim and Survivor Rights and Services, and an
6 Assistant Secretary for Correctional Safety, who shall serve at the
7 pleasure of the ~~Governor~~ *Corrections and Rehabilitation Board*.

8 (f) *There is hereby created in state government the Corrections*
9 *and Rehabilitation Board, consisting of the Governor, the*
10 *Lieutenant Governor, and the Attorney General.*

11 *SEC. 2. Section 12838.1 of the Government Code is amended*
12 *to read:*

13 12838.1. (a) There is hereby created within the Department
14 of Corrections and Rehabilitation, under the Chief Deputy
15 Secretary for Adult Operations, the Division of Adult Institutions
16 and the Division of Adult Parole Operations. Each division shall
17 be headed by a division chief, who shall be appointed by the
18 ~~Governor~~ *Corrections and Rehabilitation Board*, upon
19 recommendation of the secretary, subject to Senate confirmation,
20 who shall serve at the pleasure of the ~~Governor~~ *Corrections and*
21 *Rehabilitation Board*.

22 (b) ~~The Governor~~ *Corrections and Rehabilitation Board* shall,
23 upon recommendation of the secretary, appoint five subordinate
24 officers to the Chief of the Division of Adult Institutions, subject
25 to Senate confirmation, who shall serve at the pleasure of the
26 ~~Governor~~ *Corrections and Rehabilitation Board*. Each subordinate
27 officer appointed pursuant to this subdivision shall oversee an
28 identified category of adult institutions, one of which shall be
29 female offender facilities.

30 *SEC. 3. Section 12838.2 of the Government Code is amended*
31 *to read:*

32 12838.2. There is hereby created within the Department of
33 Corrections and Rehabilitation, under the Chief Deputy Secretary
34 for Adult Programs, the Division of Community Partnerships, the
35 Division of Education, Vocations and Offender Programs, and the
36 Division of Correctional Health Care Services. Each division shall
37 be headed by a chief who shall be appointed by the ~~Governor~~
38 *Corrections and Rehabilitation Board*, at the recommendation of
39 the secretary, subject to Senate confirmation, who shall serve at
40 the pleasure of the ~~Governor~~ *Corrections and Rehabilitation Board*.

1 *SEC. 4. Section 12838.3 of the Government Code is amended*
2 *to read:*

3 12838.3. There is hereby created within the Department of
4 Corrections and Rehabilitation under the Chief Deputy Secretary
5 for Juvenile Justice, the Division of Juvenile Facilities, the Division
6 of Juvenile Programs, and the Division of Juvenile Parole
7 Operations. Each division shall be headed by a chief, who shall
8 be appointed by the ~~Governor~~ *Corrections and Rehabilitation*
9 *Board*, at the recommendation of the secretary, subject to Senate
10 confirmation, who shall serve at the pleasure of the ~~Governor~~
11 *Corrections and Rehabilitation Board*.

12 *SEC. 5. Section 12838.13 of the Government Code is repealed.*

13 ~~12838.13. This article shall become operative as of July 1,~~
14 ~~2005.~~

15 ~~SECTION 1. Section 2653 of the Penal Code is amended to~~
16 ~~read:~~

17 ~~2653. (a) If a physician employed by the Department of~~
18 ~~Corrections and Rehabilitation certifies in writing that a particular~~
19 ~~medical treatment is required to prevent a violation of Section 147,~~
20 ~~673, 2650, or 2652, or is required to prevent serious and imminent~~
21 ~~harm to the health of a prisoner, the order for that particular medical~~
22 ~~treatment may not be modified or canceled by any employee of~~
23 ~~the department without the approval of the chief medical officer~~
24 ~~of the institution or the physician in attendance unless an inmate~~
25 ~~or ward has a known history of violent or otherwise disruptive~~
26 ~~behavior that requires additional measures to protect the safety~~
27 ~~and security of the institution specified in writing by the warden~~
28 ~~or superintendent, or unless immediate security needs require~~
29 ~~alternate or modified procedures. Following any necessary~~
30 ~~modified or alternate security procedures, treatment of the inmate~~
31 ~~or ward shall be effected as expeditiously as possible.~~

32 ~~Nothing in this section shall be construed to prevent a registered~~
33 ~~nurse from questioning, or seeking clarification of, an order from~~
34 ~~a physician that in the professional judgment of that nurse~~
35 ~~endangers patient health or safety, or otherwise is contrary to the~~
36 ~~professional ethics of the registered nurse.~~

37 ~~(b) Any person who violates this section shall be subject to~~
38 ~~appropriate disciplinary action by the department.~~

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